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RICHARD W. WIEKING
CLERK, U.S. DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA

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10 UNITED STATES DISTRICT COURT
11 NORTHERN DISTRICT OF CALIFORNIA
12 SAN FRANCISCO DIVISION

13 O2 MICRO INTERNATIONAL LIMITED, a
Cayman Islands corporation,

14 Plaintiff,

15 vs.

16 MICROSEMI CORPORATION, a Delaware
17 corporation,

18 Defendant.

Case No.

**COMPLAINT FOR DECLARATORY
JUDGMENT OF NON-INFRINGEMENT
AND INVALIDITY OF U.S. PATENTS NOS.
5,615,093, 5,923,129, 5,930,121, AND
6,198,234**

DEMAND FOR JURY TRIAL

19
20 Plaintiff O2 Micro International Limited ("O2 Micro"), for its Complaint against Defendant
21 Microsemi Corporation ("Microsemi"), alleges and avers as follows:

22 **THE PARTIES**

23 1. Plaintiff O2 Micro is a corporation duly organized and existing under the laws of the
24 Cayman Islands and having a principal place of business at the Grand Pavilion, West Bay Road,
25 George Town, Grand Cayman, Cayman Islands.
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2. O2 Micro develops and markets high performance, inverter controllers for managing power delivered to cold cathode fluorescent lamps (“CCFLs”) used as backlighting in liquid crystal display (“LCD”) applications.

3. On information and belief, Defendant Microsemi is a corporation organized under the laws of the State of Delaware and having a principal place of business at 2381 Morse Avenue, Irvine, California 92614.

4. Microsemi claims to be the owner, by assignment, of United States Patents Nos. 5,615,093 (“the ’093 patent”), 5,923,129 (“the ’129 patent”), 5,930,121 (“the ’121 patent”), and 6,198,234 (“the ’234 patent”) (collectively, the “Asserted Patents”), attached hereto.

JURISDICTION

5. This is an action for the resolution of an existing conflict under the Declaratory Judgment Act, 28 U.S.C. §§ 2201 and 2202. An actual controversy exists with respect to the Asserted Patents.

6. More specifically, on information and belief, Microsemi has licensed the '093 patent, the '129 patent, the '129 patent and the '234 patent to Monolithic Power Systems, Inc. ("MPS"), a competitor of O2 Micro with respect to CCFL inverter controller products, for a paid-up sum ("MPS License").

7. Microsemi has advised O2 Micro that O2 Micro should be “worried” about the patents from the MPS License and that Microsemi believes it has a basis to assert those patents against O2 Micro. Microsemi continues to assert the patents against O2 Micro and continues to believe it has a basis for doing so.

8. O2 Micro believes that it does not need a license to the Asserted Patents in order to conduct its business of designing and selling CCFL inverter controller products.

9. The underlying causes of action arise under the patent laws of the United States. This Court therefore has subject matter jurisdiction under 28 U.S.C. §§ 1331 and 1338(a).

VENUE

10. Venue for this action is proper in this District under 38 U.S.C. § 1391 because a substantial part of the events giving rise to this claim have occurred in this District.

INTRADISTRICT ASSIGNMENT (L.R. 3-2(c))

11. This is an Intellectual Property Action subject to assignment on a district-wide basis.

FIRST CLAIM FOR RELIEF

(Declaratory Judgment of Non-Infringement of the '093 Patent)

12. O2 Micro incorporates by reference the allegations in paragraphs 1 through 11 of this Complaint, as though fully set forth herein.

13. Microsemi has asserted the '093 patent against O2 Micro's CCFL backlight inverter controller products.

14. O2 Micro contends that it has not and does not directly, indirectly, contributorily and/or by inducement infringe any valid and enforceable claim of the '093 patent, either literally or under the doctrine of equivalents.

15. An actual and justiciable controversy exists between O2 Micro and Microsemi regarding the non-infringement of the '093 patent.

16. O2 Micro is entitled to a declaratory judgment that it has not infringed, and is not infringing, any valid and enforceable claim of the '093 patent.

SECOND CLAIM FOR RELIEF

(Declaratory Judgment of Patent Invalidity and/or Unenforceability of the '093 Patent)

17. O2 Micro incorporates by reference the allegations in paragraphs 1 through 11 of this Complaint, as though fully set forth herein.

18. The claims of the '093 patent are invalid and unenforceable for failure to meet one or more of the conditions of patentability set forth in 35 U.S.C. §§ 101, 102, 103, and/or 112.

19. Microsemi has asserted the '093 patent against O2 Micro's CCFL backlight inverter controller products.

20. O2 Micro contends that the '093 patent is invalid and unenforceable.

21. An actual and justiciable controversy exists between O2 Micro and Microsemi regarding the invalidity and/or unenforceability of the '093 patent.

22. O2 Micro is entitled to a declaratory judgment that the claims of the '093 patent are invalid and unenforceable

THIRD CLAIM FOR RELIEF

(Declaratory Judgment of Non-Infringement of the '129 Patent)

23. O2 Micro incorporates by reference the allegations in paragraphs 1 through 11 of this Complaint, as though fully set forth herein.

24. Microsemi has asserted the '129 patent against O2 Micro's CCFL backlight inverter controller products.

25. O2 Micro contends that it has not and does not directly, indirectly, contributorily and/or by inducement infringe any valid and enforceable claim of the '129 patent, either literally or under the doctrine of equivalents.

26. An actual and justiciable controversy exists between O2 Micro and Microsemi regarding the non-infringement of the '129 patent.

27. O2 Micro is entitled to a declaratory judgment that it has not infringed, and is not infringing, any valid and enforceable claim of the '129 patent.

FOURTH CLAIM FOR RELIEF

(Declaratory Judgment of Patent Invalidity and/or Unenforceability of the '129 Patent)

28. O2 Micro incorporates by reference the allegations in paragraphs 1 through 11 of this Complaint, as though fully set forth herein.

29. The claims of the '129 patent are invalid and unenforceable for failure to meet one or more of the conditions of patentability set forth in 35 U.S.C. §§ 101, 102, 103, and/or 112.

30. Microsemi has asserted the '129 patent against O2 Micro's CCFL backlight inverter controller products.

31. O2 Micro contends that the '129 patent is invalid and unenforceable.

32. An actual and justiciable controversy exists between O2 Micro and Microsemi

1 regarding the invalidity and/or unenforceability of the '129 patent.

2 33. O2 Micro is entitled to a declaratory judgment that the claims of the '129 patent are
3 invalid and unenforceable.

4 **FIFTH CLAIM FOR RELIEF**

5 (Declaratory Judgment of Non-Infringement of the '121 Patent)

6 34. O2 Micro incorporates by reference the allegations in paragraphs 1 through 11 of this
7 Complaint, as though fully set forth herein.

8 35. Microsemi has asserted the '121 patent against O2 Micro's CCFL backlight inverter
9 controller products.

10 36. O2 Micro contends that it has not and does not directly, indirectly, contributorily and/or
11 by inducement infringe any valid and enforceable claim of the '121 patent, either literally or under the
12 doctrine of equivalents.

13 37. An actual and justiciable controversy exists between O2 Micro and Microsemi
14 regarding the non-infringement of the '121 patent.

15 38. O2 Micro is entitled to a declaratory judgment that it has not infringed, and is not
16 infringing, any valid and enforceable claim of the '121 patent.

17 **SIXTH CLAIM FOR RELIEF**

18 (Declaratory Judgment of Patent Invalidity and/or Unenforceability of the '121 Patent)

19 39. O2 Micro incorporates by reference the allegations in paragraphs 1 through 11 of this
20 Complaint, as though fully set forth herein.

21 40. The claims of the '121 patent are invalid and unenforceable for failure to meet one or
22 more of the conditions of patentability set forth in 35 U.S.C. §§ 101, 102, 103, and/or 112.

23 41. Microsemi has asserted the '121 patent against O2 Micro's CCFL backlight inverter
24 controller products.

25 42. O2 Micro contends that the '121 patent is invalid and unenforceable.

26 43. An actual and justiciable controversy exists between O2 Micro and Microsemi
27 regarding the invalidity and/or unenforceability of the '121 patent.

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1 44. O2 Micro is entitled to a declaratory judgment that the claims of the '121 patent are
2 invalid and unenforceable.

3 **SEVENTH CLAIM FOR RELIEF**

4 (Declaratory Judgment of Non-Infringement of the '234 Patent)

5 45. O2 Micro incorporates by reference the allegations in paragraphs 1 through 11 of this
6 Complaint, as though fully set forth herein.

7 46. Microsemi has asserted the '234 patent against O2 Micro's CCFL backlight inverter
8 controller products.

9 47. O2 Micro contends that it has not and does not directly, indirectly, contributorily and/or
10 by inducement infringe any valid and enforceable claim of the '234 patent, either literally or under the
11 doctrine of equivalents.

12 48. An actual and justiciable controversy exists between O2 Micro and Microsemi
13 regarding the non-infringement of the '234 patent.

14 49. O2 Micro is entitled to a declaratory judgment that it has not infringed, and is not
15 infringing, any valid and enforceable claim of the '234 patent.

16 **EIGHTH CLAIM FOR RELIEF**

17 (Declaratory Judgment of Patent Invalidity and/or Unenforceability of the '234 Patent)

18 50. O2 Micro incorporates by reference the allegations in paragraphs 1 through 11 of this
19 Complaint, as though fully set forth herein.

20 51. The claims of the '234 patent are invalid and unenforceable for failure to meet one or
21 more of the conditions of patentability set forth in 35 U.S.C. §§ 101, 102, 103, and/or 112.

22 52. Microsemi has asserted the '234 patent against O2 Micro's CCFL backlight inverter
23 controller products.

24 53. O2 Micro contends that the '234 patent is invalid and unenforceable.

25 54. An actual and justiciable controversy exists between O2 Micro and Microsemi
26 regarding the invalidity and/or unenforceability of the '234 patent.

27 55. O2 Micro is entitled to a declaratory judgment that the claims of the '234 patent are
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1 invalid and unenforceable.

2 **PRAYER FOR RELIEF**

3 WHEREFORE, O2 Micro prays for:

4 1. A preliminary and permanent injunction enjoining Microsemi, and its members,
5 officers, employees, agents, affiliates, and assignees from asserting that O2 Micro infringes any
6 of the Asserted Patents;

7 2. A declaration that O2 Micro has not infringed, and is not infringing, any valid and
8 enforceable claim of any of the Asserted Patents, either directly or indirectly, literally or under
9 the doctrine of equivalents, neither has O2 Micro contributed to, nor induced infringement
10 thereof.

11 3. An award of O2 Micro's costs, attorneys' fees, and expenses pursuant to 35 U.S.C.
12 § 285;

13 4. A declaration that the claims of each of the Asserted Patents are invalid,
14 unenforceable, and void in law;

15 5. Such other and further relief as the Court deems just and proper.

16
17
18 Dated: April 12, 2007

Respectfully submitted,

HOWREY LLP

19
20
21 By: 

22 K. T. Cherian
23 Duane H. Mathiowetz
24 Attorneys for Plaintiff
25 O2 MICRO INTERNATIONAL
26 LIMITED
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JURY DEMAND

Plaintiff O2 Micro requests a jury trial on all issues.

Dated: April 12, 2007

Respectfully submitted,

HOWREY LLP

By: 

K. T. Cherian
Duane H. Mathiowetz
Attorneys for Plaintiff
O2 MICRO INTERNATIONAL
LIMITED